

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In Re:)	
)	
KEVIN LEE EARHART, and)	Case No. 08-40158-659
FRANCESCA CHRISTINE EARHART,)	Chapter 7
)	
Debtors.)	

ORDER

The matter before the Court is Application for Payment of Unclaimed Funds filed by Grace Recovery Center, LLC on behalf of Francesca Christine Earhart requesting \$9,959.73. The Court makes the following **FINDINGS AND CONCLUSIONS**:

On January 8, 2008, Kevin Lee Earhart and Francesca Christine Earhart filed a voluntary Chapter 7 case. Fredrich Cruse was appointed the Chapter 7 Trustee. The case was originally closed on June 10, 2009. On May 29, 2014, the Chapter 7 Trustee filed a Motion to Reopen Case which was granted on June 6, 2014. The Chapter 7 Trustee filed Motion to Deposit Funds Into Court Registry on July 29, 2016, seeking to deposit funds in the amount of \$19,919.46 from a check that was not cashed within 90 days of the date of issue. On August 3, 2016, the Order Granting Motion to Deposit Funds Into Court Registry was granted.

The check in question that was the subject of the Order Granting Motion to Deposit Funds Into Court Registry was made payable to Debtor Kevin Lee Earhart only. The Application for Payment of Unclaimed Funds was filed on behalf of Co-Debtor Francesca Christine Earhart seeking one half of the amount paid into the registry of the Court. The Application for Payment of Unclaimed Funds attached various additional documents including:

- (1) A jurat that is signed and notarized on June 11, 2021 followed by a Certificate of Service that certifies that a copy of this document was sent on May 9, 2021;
- (2) Limited Power of Attorney from Francesca Earhart to Grace Recovery Center, LLC;


- (3) Assignment Agreement from Francesca Earhart to Grace Recovery Center, LLC; and
- (4) Affidavit of Francesca Earhart stating that she is estranged from her ex-husband, Kevin Earhart, is unaware of his whereabouts and is requesting that the unclaimed funds be divided equally followed by a purported signature page that states at the top "Page 1 of 2".

Based on a review of the record as a whole in this case, the Chapter 7 Trustee made the check, that is the subject of the unclaimed funds, payable to Debtor Kevin Lee Earhart only. There is nothing in the record, including the Application for Payment of Unclaimed Funds, that establishes that Francesca Christine Earhart has any interest, marital or otherwise, in the unclaimed funds.

Additionally, the Court is unclear whether Francesca Christine Earhart signed the Affidavit attached to the Application for Payment of Unclaimed Funds since the signature appears on a separate page that states at the top "Page 1 of 2".

Finally, it is unclear whether the Application for Unclaimed Funds was served on the Office of the United States Attorney, Eastern District of Missouri, in light of the notary date being June 11, 2021 and the Certificate of Service date being May 9, 2021. Therefore,

IT IS ORDERED THAT the Application for Payment of Unclaimed Funds filed by Grace Recovery Center, LLC on behalf of Francesca Christine Earhart is **DENIED**.


KATHY A. SURRATT-STATES
Chief United States Bankruptcy Judge

DATED: August 17, 2021
St. Louis, Missouri

Copies to:

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